

ORIGINAL

FOC L

Focal Communications Corporation
200 North LaSalle Street
11th Floor
Chicago, Illinois 60601

312-895-8400
312-895-8403 fax

March 1, 2001

RECEIVED EX PARTE OR LATE FILED

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

MAR - 2 2001

FCC MAIL ROOM

Re: Clarification of Bell Atlantic/GTE Merger Conditions
CC Docket No. 98-184

Dear Ms. Salas,

I am enclosing for filing in CC Docket No. 98-184 an original and four copies of a letter that I am simultaneously sending to Dorothy Attwood, Chief of the Common Carrier Bureau.

Thank you for your cooperation in this matter. If you have any questions, do not hesitate to contact me.

Sincerely,



Jane Van Duzer
Senior Counsel-Regulatory
Focal Communications Corporation
(312)895-8949

No. of Copies rec'd 01 4
List A B C D E



Focal Communications Corporation
200 North LaSalle Street
11th Floor
Chicago, Illinois 60601

312-895-8400
312-895-8403 fax

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March 1, 2001

MAR - 2 2001

VIA OVERNIGHT MAIL

FCC MAIL ROOM

Ms. Dorothy Attwood, Chief
Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Clarification of Bell Atlantic/GTE Merger Conditions

Dear Ms. Attwood,

On behalf of Focal Communications Corporation ("Focal"), this letter responds to the February 20, 2001 letter ("Verizon's Letter") submitted by Verizon, Inc. ("Verizon") concerning the most-favored nation ("MFN") provisions of the *Bell Atlantic/GTE Merger Order*.¹ Verizon requests that you "review and clarify" the determination set forth in Carol Matthey's opinion letter ("Opinion Letter"), dated December 22, 2000, which explained that the MFN provisions apply to entire interconnection agreements, so that carriers may import interconnection agreements from one state into another state. For the reasons set forth below, Focal respectfully requests that you deny Verizon's request to change this determination, and, more importantly, given Verizon's conscious decision to ignore the Opinion Letter, Focal further requests that you require Verizon to abide by the express requirements of the MFN provisions.

The first argument raised in Verizon's Letter is that the Opinion Letter fails to consider the policy implications of interpreting the Merger Conditions in what Verizon contends is a "broad" fashion. On the contrary, the Opinion Letter sets forth a straight-forward and reasoned reading of the Merger Conditions. It is Verizon that fails utterly to explain what public policy goal could possibly be furthered by permitting a carrier to import only a portion of an interconnection agreement and then requiring that carrier to negotiate—or worse, to arbitrate—another separate agreement to cover resale, number portability, dialing parity, access to rights of way and reciprocal compensation.

¹ GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, *Memorandum Opinion and Order*, FCC 00-221 (rel. Jun. 16, 2000) ("Bell Atlantic/GTE Merger Order"), Appendix D (the "Merger Conditions"), ¶ 32. See also *Bell Atlantic/GTE Merger Order*, ¶¶ 300-05.

FOC L

Ms. Dorothy Attwood, Chief
Common Carrier Bureau
Federal Communications Commission
March 1, 2001
Page 2

Moreover, Verizon's argument misses the point. The explicit obligations of paragraph 32 of the Merger Conditions expand the state-specific adoption duties imposed on Verizon by section 252(i) of the Telecommunications Act of 1996 (the "Act") to encompass a region-wide duty. When the Commission decided to extend region-wide the benefit under 252(i) of avoiding the burden of negotiating (or arbitrating) an interconnection agreement, it did so to reduce a CLEC's risk and cost of entry, lower a CLEC's barriers to entry, and spread the use of best practices.² Certainly in deciding to implement the MFN requirement, the Commission weighed the policy implications that Verizon is now raising of allowing all interconnection provisions, including reciprocal compensation provisions, to be imported across state borders. The Commission obviously determined that it was in the public interest to enact such a requirement to address the increase in Verizon's competitive power that was going to result from the approval of the merger.

In the context of this argument, Verizon also inexplicably claims that the "sole issue in dispute between the parties" and the only contract provision at issue is the "single provision that addressed compensation for Internet traffic."³ This is simply untrue. Verizon's position has been that Focal cannot adopt *any* provisions of any negotiated agreement that address matters covered by section 251(b). In fact, as recently as January 11, 2001, Verizon tried to force Focal to negotiate a separate agreement to obtain provisions relating to section 251(b) duties and some unrelated matters in the context of another request by Focal to opt-in to a pre-merger negotiated agreement. By letters dated January 11, 2001, Verizon responded to Focal's October 4, 2000, request to adopt in the states of Washington and Virginia the negotiated, pre-merger interconnection agreement in North Carolina between GTE South Inc. and Time Warner Telecom.⁴ In addition to requesting Focal's signature on an adoption letter, Verizon sought Focal's signature on a 21 page Supplemental Agreement purporting to reflect Focal's and Verizon's "agreement" that the MFN provisions only apply to interconnection arrangements under Section 251(c) and setting forth a new set of terms and conditions drafted by Verizon that cover a variety of matters including zero reciprocal compensation for Internet traffic, traffic audits, and limitations on the prices Focal may charge for its services.

² *Id.* at ¶¶ 300-05, 352, 356, and 370.

³ Verizon's Letter at 1 and 2.

⁴ A copy of Verizon's Washington letter and attachments, which are substantively identical to Verizon's Virginia letter and attachments, is attached hereto.

FOC L

Ms. Dorothy Attwood, Chief
Common Carrier Bureau
Federal Communications Commission
March 1, 2001
Page 3

Verizon's Letter also restates the legal arguments from its December 6, 2000, letter to support its position that Verizon is only obligated to make available to Focal those provisions of an interconnection agreement that are delineated in section 251(c) of the Act. Verizon's position flies in the face of the express language of the Merger Conditions⁵ in the *Bell Atlantic/GTE Merger Order*⁶, which specifically allow Focal to adopt an "entire agreement." As noted above with respect to Focal's request to adopt certain GTE agreements, Verizon continues to assert its position even after Ms. Matthey issued the Opinion Letter. This illustrates Verizon's continued anticompetitive behavior in attempting to deny CLECs the exercise of their rights as defined by the Act and this Commission. Verizon's actions in defying the staff's interpretations of the Commission's own orders provides compelling evidence that the protections envisioned by the Commission in enacting the MFN requirement are sorely needed.⁷

Verizon may be annoyed that its interpretation of the MFN provision has been rejected, but that is not enough. Verizon has failed to articulate any reasoned basis for its strained interpretation. Under Verizon's theory that 251(b) obligations cannot be taken across state borders, no carrier could ever adopt an "entire agreement" across state borders, and the language in the MFN provisions and the *Bell Atlantic/GTE Merger Order* would be rendered meaningless. Yet, Section 251(c) incorporates by express reference, all of the duties of section 251(b). Indeed, the Opinion Letter simply states the obvious facts, based upon a plain reading of the Merger Conditions and the *Bell Atlantic/GTE Merger Order*, that all interconnection arrangements, including those set forth in section 251(b) and entire interconnection agreements, can be adopted across state borders. The Letter Opinion does not "further complicate an already complicated situation"⁸ There is nothing complicated about the plain language of the MFN provision. Verizon alone is responsible for complicating this issue by pursuing its ridiculous and anticompetitive interpretation of the Merger Conditions and failing to comply with staff's reasoned interpretation.

⁵ Merger Conditions at ¶ 32.

⁶ *Bell Atlantic/GTE Merger Order* at ¶ 300, n. 686.

⁷ Focal finds it curious that, while Verizon participated fully in the process which resulted in the Opinion Letter, Verizon has refused to abide by staff's interpretation. Indeed, since Verizon admits that the Opinion Letter is sufficiently binding that it requires a request for reconsideration, then there is no reasonable basis for Verizon to refuse to comply with the MFN provision as interpreted in the Opinion Letter.

⁸ Verizon's Letter at 4.

FOC L

Ms. Dorothy Attwood, Chief
Common Carrier Bureau
Federal Communications Commission
March 1, 2001
Page 4

For the reasons set forth herein and in Focal's November 9, 2000 letter, Focal respectfully requests that you deny Verizon's request to change the determinations set forth in the Letter Opinion and further affirm Verizon's obligation to comply with the express requirements of the MFN provisions.

Very truly yours,



Jane Van Duzer
Senior Counsel-Regulatory

cc: Carol Matthey (w/encl.)
Anthony Dale (w/encl.)
Pamela Arluk (w/encl.)
Gordon R. Evans (w/encl.)

ACCESS SERVICE

17. Rates and Charges (Cont'd)17.2 Switched Access Service17.2.1 Nonrecurring Charges

(A) Local Transport - Installation Per Entrance Facility

Regulations concerning Local Transport-Installation are set forth in 6.4.1(B)(1) preceding.

<u>Filing Entity</u>	<u>High Capacity</u>		
	<u>DS1</u>	<u>DS3</u>	
ALLTEL Carolina, Inc.	\$340.00	\$370.00	(I) (R)
ALLTEL Florida	\$340.00	\$370.00	
ALLTEL GA. Communications Corp.	\$340.00	\$370.00	
Georgia ALLTEL Telecom, Inc.	\$340.00	\$370.00	
ALLTEL Kentucky	\$340.00	\$370.00	
ALLTEL New York, Inc. - Fulton	\$340.00	\$370.00	
ALLTEL New York, Inc. - Jamestown	\$340.00	\$370.00	
ALLTEL New York, Inc. - Red Jacket	\$340.00	\$370.00	
Oklahoma ALLTEL, Inc.	\$340.00	\$370.00	
ALLTEL Pennsylvania	\$340.00	\$370.00	
Sugar Land Telephone	\$340.00	\$370.00	
ALLTEL Georgia	\$340.00	\$370.00	
ALLTEL Mississippi	\$340.00	\$370.00	
ALLTEL Missouri	\$340.00	\$370.00	
ALLTEL Oklahoma	\$340.00	\$370.00	
ALLTEL South Carolina	\$340.00	\$370.00	
Western Reserve	\$340.00	\$370.00	
ALLTEL Alabama	\$340.00	\$370.00	
Texas ALLTEL	\$340.00	\$370.00	(I) (R)
ALLTEL Arkansas	\$340.00	\$370.00	(N) (N)

(TR61)

Issued: June 16, 1998

Effective: July 1, 1998

One Allied Drive
Little Rock, Arkansas 72203

Dana Bolin
Contract Manager



Network Services
600 Hidden Ridge HQE03B56
P.O. Box 152092
Irving, Texas 75038
Phone 972-718-7584
Fax 972-718-1279
dana.bolin@verizon.com

January 11, 2001

Mr. David Tatak
Director - Regulatory Affairs
Focal Communications Corporation
200 North LaSalle Street
11th Floor
Chicago, IL 60601

RE: Focal WA Adoption of TWTC NC

Dear Mr. Tatak,

In response to your October 4, 2000 letter, attached are two copies of an original interstate MFN adoption letter and two copies of a Supplemental Agreement for Focal Communications Corporation (Focal). The interstate MFN adoption letter provides for Focal's adoption of the TWTC North Carolina Terms into Washington pursuant to the Most Favored Nations Provisions contained in Section 9 of the Conditions for the Bell Atlantic/GTE Merger (Merger Order). Please note the interstate MFN adoption letter contains a description of elements that are not subject to the MFN obligations of the Merger Order and reflects Verizon's offer to work cooperatively with Focal to address such provisions. Verizon has reviewed the TWTC North Carolina Terms in order to identify such non-MFNable terms, and proposes the Supplemental Agreement to provide for terms that are not subject to the MFN provisions of the Merger Order. We believe the interstate MFN adoption letter, along with the Supplemental Agreement, would provide Focal comprehensive arrangements for the state of Washington that could be implemented expeditiously.

Please sign the attached (1) two original interstate MFN adoption letters and (2) two original attached Supplemental Agreements. Return all originals and a copy of this letter to:

Ms. Sherri Sebring
Verizon
Mail Code E03B56
600 Hidden Ridge
Irving, TX 75038
Phone: 972-718-5286

Upon receipt, Verizon will execute both originals, coordinate the filing with the Washington Utilities & Transportation Commission and provide a copy of the filing to you for your file.

If you have any questions or wish to discuss either the interstate MFN adoption letter or the Supplemental Agreement, please call me at 972-718-7584.

A handwritten signature in cursive script that reads "Dana Bolin".

Dana Bolin
Contract Manager

Jeffrey A. Masoner
Vice President – Interconnection Services



Network Services
600 Hidden Ridge HQE03867
P.O. Box 152092
Irving, Texas 75038

Phone 972-718-1333
Fax 972-718-1279
steve.pitterle@verizon.com

January 11, 2001

Mr. David Tatak
Director - Regulatory Affairs
Focal Communications Corporation
200 North LaSalle Street
11th Floor
Chicago, IL 60601

Re: Requested Adoption Under the FCC Merger Conditions - Washington

Dear Mr. Tatak:

Verizon Northwest Inc, f/k/a GTE Northwest Incorporated ("Verizon Washington"), has received your letter stating that, pursuant to paragraph 32 of the BA/GTE Merger Conditions ("Merger Conditions"), released by the FCC on June 16, 2000 in CC Docket No. 98-184, Focal wishes to provide services to customers in Verizon Washington's service territory in the State of Washington by adopting the voluntarily negotiated terms of the Interconnection Agreement between Time Warner Telecom and Verizon South Inc., f/k/a GTE South Incorporated ("Verizon South") that was approved by the North Carolina Utilities Commission as an effective agreement in the State of North Carolina, as such agreement exists on the date hereof after giving effect to operation of law (the "Verizon South Terms")¹.

I understand that Focal has a copy of the Verizon South Terms which, in any case, are attached hereto as Appendix 1. Except with respect to North Carolina state-specific pricing provisions, performance measures provisions, provisions that incorporate a determination reached in an arbitration conducted in the relevant state under 47 U.S.C. Section 252, provisions that incorporate the results of negotiations with a state commission or telecommunications carrier outside of the negotiation procedures of 47

¹ These "agreements" are not agreements in the generally accepted understanding of that term. Verizon South was required to accept these agreements, which were required to reflect then-effective FCC rules and other applicable law.

U.S.C. Section 252(a)(1), and any provisions not required by Section 251(c) of the Telecommunications Act of 1996 (the "Act") (including but not limited to any reciprocal compensation provisions which are also excluded as state-specific pricing provisions and, in any case, are not available for adoption under the Merger Conditions) contained in the Time Warner Telecom/Verizon South agreement, Verizon Washington does not oppose Focal's adoption of the Verizon South Terms at this time. However, please note the following with respect to Focal's adoption of the Verizon South Terms.

1. By Focal's countersignature on this letter, Focal hereby represents and agrees to the following three points:

(A) Focal adopts in the service territory of Verizon Washington, the Verizon South Terms of the Time Warner Telecom/Verizon South agreement, and in applying the Verizon South Terms, agrees that Focal shall be substituted in place of Time Warner Telecom in the Verizon South Terms wherever appropriate.

(B) Focal and Verizon Washington request that notice as may be required or permitted under the Verizon South Terms shall be provided as follows:

To Focal:

Director, Regulatory Affairs
200 N. LaSalle Street
Suite 1100
Chicago, IL 60601
Facsimile: 312-895-8403
Phone: 312-895-8400

To Verizon:

Director-Contract Performance & Administration
Verizon Wholesale Markets
600 Hidden Ridge
HQEWMNOTICES
Irving, TX 75038
Telephone Number: 972-718-5988
Facsimile Number: 972-719-1519
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel
Verizon Wholesale Markets
1320 N. Court House Road
8th Floor
Arlington, VA 22201
Facsimile: 703/974-0744

- (C) Focal represents and warrants that it is a certified provider of local telecommunications service in the State of Washington, and that its adoption of the Verizon South Terms will only cover services in the service territory of Verizon Washington in the State of Washington.

2. Focal's adoption of the Verizon South Terms shall become effective upon the date that Verizon Washington files this letter with the Washington Utilities & Transportation Commission, which Verizon Washington will promptly do upon my receipt of a copy of this letter, countersigned by Focal as to points (A), (B) and (C) of paragraph 1 above) and remain in effect no longer than the date the Time Warner Telecom/Verizon South agreement terminates or expires. The Time Warner Telecom/Verizon South agreement is currently scheduled to expire on May 11, 2002. Thus, the Verizon South Terms adopted by Focal also shall terminate or expire on that date.

3. As the Verizon South Terms are being adopted by Focal pursuant to the Merger Conditions, Verizon Washington does not provide the Verizon South Terms to Focal as either a voluntary or negotiated agreement. The filing and performance by Verizon Washington of the Verizon South Terms does not in any way constitute a waiver by Verizon Washington of any position as to the Verizon South Terms or a portion thereof. Nor does it constitute a waiver by Verizon Washington of any rights and remedies it may have to seek review of the Verizon South Terms, or to seek review of any provisions included in these Verizon South Terms as a result of Focal's election pursuant to the Merger Conditions.

4. Focal's adoption of the Verizon South Terms pursuant to the Merger Conditions is subject to all of the provisions of such Merger Conditions. For example, state-specific pricing, state-specific performance measures, provisions that incorporate a determination reached in an arbitration conducted in the relevant state under 47 U.S.C. Section 252, provisions that incorporate the results of negotiations with a state commission or telecommunications carrier outside of the negotiation procedures of 47 U.S.C. Section 252(a)(1), and provisions from the Time Warner Telecom/Verizon South agreement that are not required pursuant to Section 251(c) of the Act shall not apply to Focal's adoption of the Verizon South Terms in the State of Washington. In that regard, Verizon Washington's standard pricing schedule for interconnection agreements (as such schedule may be amended from time to time) (attached as Appendix 2 hereto) shall apply to Focal's adoption of the Verizon South Terms. Focal should note that the aforementioned pricing schedule contains rates for certain services the terms for which are not subject to adoption under the Merger Conditions (e.g., number portability and reciprocal compensation). In an effort to expedite the adoption process, Verizon Washington has not taken the time to delete such rates from the pricing schedule. However, the inclusion of such rates in no way obligates Verizon Washington to provide the subject services and in no way waives Verizon Washington's rights under the Merger Conditions. Verizon Washington will, nonetheless, if requested by Focal, work cooperatively with Focal to the extent necessary to identify any other provisions of the Time Warner Telecom/Verizon South agreement including provisions that incorporate a determination reached in an arbitration conducted in the relevant state under 47 U.S.C. Section 252, provisions that

incorporate the results of negotiations with a state commission or telecommunications carrier outside of the negotiation procedures of 47 U.S.C. Section 252(a)(1), and provisions that are not required pursuant to Section 251(c) of the Act that are not subject to the MFN obligations of the Merger Conditions so that Focal, should it desire similar terms in Washington, may evaluate its options for obtaining such similar terms under applicable law.

As noted directly above, under the terms of paragraph 32 of the Merger Conditions, the MFN requirements in the Merger Conditions are exclusive of price terms, and prices applicable to interconnection arrangements are to be established on a state-specific basis. In addition, paragraph 32 of the Merger Conditions provides that Verizon Washington is not obligated to permit a carrier to adopt any interconnection arrangement unless the arrangement "is consistent with the laws and regulatory requirements of the state for which the request is made[.]" Thus, by Focal's adoption of the Time Warner Telecom/Verizon South agreement for Washington, Focal must accept the pricing terms applicable to CLECs in the State of Washington, and it will not be entitled to terms and arrangements inconsistent with Washington law and policy.

In addition, the Merger Conditions' MFN obligation on which Focal relies extends only to interconnection arrangements, UNEs, or provisions of an interconnection agreement that are "subject to 47 U.S.C. § 251(c)" As you know, the obligation of local exchange carriers to pay one another reciprocal compensation for local traffic is found not in Section 251(c), but in Section 251(b), of the Act. On its face, therefore, the Merger Conditions' provision on which Focal relies does not extend to the reciprocal compensation provisions of Verizon South's interconnection agreements or to any other provisions therein not required by Section 251(c).

Even if this provision of the Merger Conditions were to be misconstrued as encompassing not only items subject to Section 251(c), but also items subject to Section 251(b), it would still not obligate Verizon Washington to permit the cross-state adoption of compensation terms pertaining to Internet traffic. The FCC's February 1999 order expressly found that Internet traffic is not local. Accordingly, even if the Time Warner Telecom/Verizon South agreement were mistakenly construed as containing a voluntary commitment to pay compensation on Internet traffic, that commitment would be entirely outside the scope of the requirements of Section 251, and therefore not subject to the cross-state MFN provisions of the Merger Conditions.

In addition, Focal's adoption of the Verizon South Terms shall not obligate Verizon Washington to provide any interconnection arrangement or unbundled network element unless it is feasible to provide given the technical, network and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of Washington and with applicable collective bargaining agreements.

5. On January 25, 1999, the Supreme Court of the United States issued its decision on the appeals of the Eighth Circuit's decision in Iowa Utilities Board. The Supreme Court modified several of the FCC's and the Eighth Circuit's rulings regarding

unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999). Certain provisions of the Verizon South Terms may be void or unenforceable as a result of the Supreme Court's decision of January 25, 1999, the United States Eighth Circuit Court of Appeals' recent decision in Docket No. 96-3321 regarding the FCC's pricing rules, and any related appeals applicable to the FCC's new UNE rules or UNE pricing rules. Moreover, nothing herein shall be construed as or is intended to be a concession or admission by Verizon Washington that any provision in the Verizon South Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commissions, the decisions of the courts, or other law, and Verizon Washington expressly reserves its full right to assert and pursue claims arising from or related to the Verizon South Terms.

6. Verizon Washington reserves the right to deny Focal's adoption and/or application of the Verizon South Terms, in whole or in part, at any time:

- (A) when the costs of providing the Verizon South Terms to Focal are greater than the costs of providing them to Time Warner Telecom;
- (B) if the provision of the Verizon South Terms to Focal is not technically feasible;
- (C) if Verizon Washington otherwise is not obligated to permit such adoption and/or application under the Merger Conditions or under applicable law.

7. As noted above in paragraph 6, pursuant to Rule 809 of the FCC Regulations, the FCC gave ILECs the ability to deny 252(i) adoptions (and adoptions pursuant to the Merger Conditions, since the 252(i) rules also apply thereto) in those instances in which the cost of providing the service to the requesting carrier is higher than that incurred in serving the initial carrier or in which there is a technical incompatibility issue. The issue of reciprocal compensation for traffic destined for the Internet falls within this exception. Verizon Washington never intended for Internet traffic to be included within the definition of local traffic and subject to the corresponding obligation of reciprocal compensation. Whatever doubt any party may have had with respect to this issue was removed by the Declaratory Ruling that the Federal Communications Commission (the "FCC") released on February 26, 1999 which, among other things, "conclude[d] . . . that ISP-bound traffic is non-local interstate traffic."² The FCC also reaffirmed that "section 251(b)(5) of the Act and [the FCC] rules promulgated pursuant to that provision concern inter-carrier compensation for interconnected *local* telecommunications traffic."³ Based on the FCC's Declaratory Ruling (among other things), it is clear that Internet traffic is not local traffic. Despite the foregoing, some forums have required reciprocal

² Declaratory Ruling in FCC CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68 (rel. February 26, 1999), fn. 87. The D.C. Circuit Court has recently asked the FCC to explain more fully its reasoning in arriving at this conclusion in the Declaratory Ruling, but it has not rejected the conclusion. The FCC, moreover, has publicly since reiterated the correctness of its conclusion.

³ *Id.* (emphasis in original).

compensation to be paid. This produces the situation in which the cost of providing the service is not cost based. With this in mind (as well as the other bases noted in this letter), Verizon Washington opposes, and reserves the right to deny, the adoption and/or the application of the provisions of the Verizon South Terms that might be interpreted to characterize traffic destined for the Internet as local traffic or requiring the payment of reciprocal compensation. However, Verizon Washington shall, in any case, comply with the requirements of applicable law with respect to this issue.

8. Should Focal attempt to apply the Verizon South Terms in a manner that conflicts with paragraphs 3-7 above, Verizon Washington reserves its rights to seek appropriate legal and/or equitable relief.

Please arrange for a duly authorized representative of Focal to sign this letter in the space provided below and return it to the undersigned.

Sincerely,

Verizon Northwest Inc.

Jeffrey A. Masoner
Vice President-Interconnection Services

Reviewed and countersigned as to points A, B, and C of paragraph 1:

Focal Communications Corporation

By _____

Title _____

Attachments

**AGREEMENT
BETWEEN
VERIZON NORTHWEST INC.,
F/K/A GTE NORTHWEST INCORPORATED
AND
FOCAL COMMUNICATIONS CORPORATION
SUPPLEMENTING TERMS ADOPTED BY FOCAL COMMUNICATIONS CORPORATION
PURSUANT TO PARAGRAPH 32 OF THE BA/GTE MERGER CONDITIONS**

THIS AGREEMENT is by and between Verizon Northwest Inc., f/k/a GTE Northwest Incorporated ("Verizon Washington") and Focal Communications Corporation ("Focal"), Verizon Washington and Focal being referred to collectively as the "Parties" and individually as a "Party". This Agreement covers services in the State of Washington (the "State").

WHEREAS, pursuant to paragraph 32 of the BA/GTE Merger Conditions ("Merger Conditions"), released by the FCC on June 16, 2000 in CC Docket No. 98-184, Focal has adopted the terms of the Interconnection Agreement between TWTC and Verizon South Inc., f/k/a GTE South Incorporated in the State of North Carolina ("Verizon South Terms");

WHEREAS, paragraph 32 of the Merger Conditions applies only to interconnection arrangements, Unbundled Network Elements, and provisions of an interconnection agreement that are subject to 47 U.S.C. Section 251(c), and, among other things, is further limited to voluntarily negotiated terms and conditions that are not the product of state-specific pricing or regulatory obligations;

WHEREAS, pursuant to Section 252(a)(1) of the Act, and without waiving any of their rights to challenge the legality of the Verizon South Terms, the Parties now wish to supplement the Verizon South Terms to reflect agreement concerning obligations and relationships that are not covered by Focal's adoption of the Verizon South Terms under paragraph 32 of the FCC Merger Conditions;

WHEREAS, in drafting this Agreement the Parties have not undertaken to update the Verizon South Terms to incorporate intervening changes in law and each party fully reserves its future rights to do so to the extent permitted by the Verizon South Terms;

NOW, THEREFORE, in consideration of the mutual promises, provisions and covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Parties have undertaken a joint review of the Verizon South Terms and have identified a number of supplemental terms (reflected in Paragraph 2) that are necessary to establish a contractual relationship between the Parties in relation to terms and conditions that cannot be ported across state boundaries pursuant to FCC merger conditions (e.g., terms and conditions that are neither 47 U.S.C. Section 251(c) requirements nor terms and conditions that are legitimately related to those requirements, terms and conditions reflecting state-specific regulatory requirements, terms and conditions that are the product of arbitration). The Parties acknowledge and agree that their joint review has not been exhaustive, but represents the Parties' mutual best efforts to identify such issues in the interest of avoiding future disputes. By entering into this Agreement, Verizon Washington does not waive any future right that it may have to assert that particular terms and conditions contained in the Verizon South Terms cannot be required in the State of Washington pursuant to the FCC Merger Conditions. If such issues are later identified, the Parties shall, where necessary, promptly negotiate terms and conditions in accordance with applicable law covering the same subject(s). Should the Parties be unable to mutually agree on how such terms and conditions should be reflected, such dispute may be resolved pursuant to the dispute resolution mechanism contained in the Verizon South Terms.

2. Pursuant to the joint review discussed in Paragraph 1, the Parties agree that the following terms

and conditions (listed in reference to the Articles of the Verizon South Terms to which they correlate), represents subjects that are not available for adoption under paragraph 32 of the Merger Conditions, and shall supplement Focal's adoption of the Verizon South Terms, as set out specifically below:

Article II (Definitions):

1.48.5 Internet Traffic

Traffic that is transmitted to or returned from the Internet at any point during the duration of the transmission.

1.58 Local Traffic

Traffic that is originated by a Customer of one Party on that Party's network and terminates to a Customer of the other Party on that other Party's network within Verizon's then current local calling area (including non-optional local calling scope arrangements) as defined in Verizon's effective Customer Tariffs. A non-optional local calling scope arrangement is an arrangement that provides Customers a local calling scope (Extended Area Service, "EAS"), beyond their basic exchange serving area. Local Traffic does not include optional local calling scope traffic (i.e., traffic that under an optional rate package chosen by the Customer terminates outside of the Customer's basic exchange serving area). IntraLATA calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis are not considered Local Traffic. Local Traffic does not include any Internet Traffic.

1.75 Rate Center Point

A specific geographic point, defined by a V&H coordinate, located within the Rate Center Area and used to measure distance for the purpose of billing customers for distance-sensitive Telephone Exchange Services and Toll Traffic.

1.75.5 Rate Center Area or Exchange Area

The geographic area that has been identified by a given LEC as being associated with a particular NPA-NXX code assigned to the LEC for its provision of Telephone Exchange Services. The Rate Center Area is the exclusive geographic area that the LEC has identified as the area within which it will provide Telephone Exchange Services bearing the particular NPA-NXX designation associated with the specific Rate Center Area.

1.75.6 Reciprocal Compensation

The arrangement for recovering costs incurred for the transport and termination of Local Traffic originating on one Party's network and terminating on the other Party's network.

1.87.5 Switched Exchange Access Service

The offering of transmission and switching services for the purpose of the origination or termination of Toll Traffic. Switched Exchange Access Services include but may not be limited to: Feature Group A, Feature Group B, Feature Group D, 700 access, 800 access, 888 access and 900 access.

1.90.5 Toll Traffic

Traffic that is originated by a Customer of one Party on that Party's network and delivered to a Customer of the other Party on that Party's network and is not Local Traffic or

Ancillary Traffic. Toll Traffic may be either "IntraLATA Toll Traffic" or "InterLATA Toll Traffic," depending on whether the originating and terminating points are within the same LATA.

Article III (General Provisions):

31. **Notices.**

To Focal:

Director, Regulatory Affairs
200 N. LaSalle Street
Suite 1100
Chicago, IL 60601
Telephone Number: 312-895-8400
Facsimile Number: 312-895-8403

To Verizon:

Director-Contract Performance & Administration
Verizon Wholesale Markets
600 Hidden Ridge
HQEWMNOTICES
Irving, TX 75038
Telephone Number: 972-718-5988
Facsimile Number: 972-719-1519
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel
Verizon Wholesale Markets
1320 N. Court House Road
8th Floor
Arlington, VA 22201
Facsimile: 703/974-0744

or to such other address as either Party shall designate by proper notice.

Article V (Interconnection and Transport and Termination of Traffic):

2.2 **Rates and Charges.**

Customer agrees to pay to Provider the rates and charges for the Services set forth in the applicable appendices to this Agreement. Verizon's rates and charges are set forth in Article XI. Focal's separate rates and charges are also set forth in Article XI.

3. **Transport and Termination of Traffic**

3.1 **Traffic to be Exchanged.**

The Parties shall reciprocally terminate Local, IntraLATA Toll, optional EAS and jointly provided IXC traffic originating on each other's networks utilizing either Direct or Indirect Network Interconnections as provided in Section 4 or Section 5 herein. To this end, the Parties agree that there will be interoperability between their networks. The Parties agree

to exchange traffic associated with third party LECs, CLECs and Wireless Service Providers pursuant to the compensation arrangement specified in Section 3.3 herein. In addition, the Parties will notify each other of any anticipated change in traffic to be exchanged (e.g., traffic type, volume).

3.2.2 Compensation Arrangements. The Parties shall compensate each other for the transport and termination of Local Traffic delivered to the terminating Party in accordance with Section 251(b)(5) of the Act (Reciprocal Compensation) at the rates stated in Article XI. When such Local Traffic is delivered over the same trunks as Toll Traffic, any port or transport or other applicable access charges related to the delivery of Toll Traffic to an end user shall be prorated to be applied only to the Toll Traffic. The Parties agree to the initial state level exempt factor representative of the share of traffic exempt from local compensation. This initial exempt factor is set forth in Article XI. This factor will be updated quarterly in like manner or as the Parties otherwise agree. Once the traffic that is exempt from local compensation can be measured, the actual exempt traffic will be used rather than the above factor. This factor is applied to terminating usage to determine the jurisdiction for rate application. The designation of traffic as Local Traffic for purposes of Reciprocal Compensation shall be based on the actual originating and terminating points of the complete end-to-end communication.

Transport and termination of the following types of traffic shall not be subject to the Reciprocal Compensation arrangements set forth in this Section, but instead shall be treated as described or referenced below:

3.2.2.1 Tandem Transit Traffic shall be treated as specified in Section 3.3.

3.2.2.2 For any traffic originating with a third party carrier and delivered by Focal to Verizon, Focal shall pay Verizon the same amount that such third party carrier would have been obligated to pay Verizon for termination of that traffic at the location the traffic is delivered to Verizon by Focal.

3.2.2.3 Switched Exchange Access Service and InterLATA or IntraLATA Toll Traffic shall continue to be governed by the terms and conditions of the applicable Tariffs and, where applicable, by a Meet-Point Billing arrangement in accordance with Section 8.

3.2.2.4 No Reciprocal Compensation shall apply to Internet Traffic. If the amount of traffic (excluding intraLATA Toll Traffic) that Verizon delivers to Focal exceeds twice the amount of traffic that Focal delivers to Verizon as Local Traffic ("2:1 ratio"), then the amount of traffic that Verizon delivers to Focal in excess of such 2:1 ratio shall be presumed to be Internet Traffic and shall not be subject to Reciprocal Compensation. Notwithstanding any other provision in this Agreement, if the Commission, the FCC, or a court of competent jurisdiction, should issue or release an order, or if a federal or state legislative authority should enact a statute, that by its terms (a) expressly supercedes or modifies existing interconnection agreements and (b) specifies a rate or rate structure for reciprocal compensation, intercarrier compensation, or access charges, that is to apply to Internet Traffic, then the Parties shall promptly amend this Agreement to reflect the terms of such order or statute. If such order or statute does not expressly supercede or modify existing interconnection agreements, then Verizon, in its sole discretion, may elect either to continue the provisions set forth herein with regard to Internet Traffic, or to terminate such provisions with thirty (30) days advance written notice. In the event Verizon elects to exercise its termination right, then the Parties shall promptly amend this Agreement to

reflect the terms of such order or statute, and any such amendment shall be retroactive to the effective date of the termination.

3.2.2.5 No Reciprocal Compensation shall apply to special access, private line, or any other traffic that is not switched by the terminating Party.

3.2.2.6 IntraLATA intrastate alternate-billed calls (e.g., collect, calling card, and third-party billed calls originated or authorized by the Parties' respective Customers in Washington shall be treated in accordance with an arrangement mutually agreed to by the Parties.

3.2.2.7 Any other traffic not specifically addressed in this Section shall be treated as provided elsewhere in this Agreement, or if not so provided, as required by the applicable Tariff of the Party transporting and/or terminating the traffic.

3.2.3 Local Designation in Customer Tariffs. Nothing in this Agreement shall be construed to limit either Party's ability to designate the areas within which that Party's Customers may make calls which that Party rates as "local" in its Customer Tariffs.

3.2.4 Traffic Audits. Each Party reserves the right to audit all Traffic, up to a maximum of two audits per calendar year, to ensure that rates are being applied appropriately; provided, however, that either Party shall have the right to conduct additional audit(s) if the preceding audit disclosed material errors or discrepancies. Each Party agrees to provide the necessary Traffic data in conjunction with any such audit in a timely manner.

3.3 Tandem Transit Traffic

3.3.1 As used in this Section 3, Tandem Transit Traffic is Telephone Exchange Service traffic that originates on Focal's network, and is transported through a Verizon Tandem to the Central Office of a CLEC, ILEC other than Verizon, Commercial Mobile Radio Service (CRMS) carrier, or other LEC, that subtends the relevant Verizon Tandem to which Focal delivers such traffic. Neither the originating nor terminating Customer is a Customer of Verizon. Subtending Central Offices shall be determined in accordance with and as identified in the Local Exchange Routing Guide (LERG). Switched Exchange Access Service traffic is not Tandem Transit Traffic.

3.3.2 Tandem Transit Traffic Service provides Focal with the transport of Tandem Transit Traffic as provided below.

3.3.3 Tandem Transit Traffic may be routed over the Local trunks described in Section 4.3. Focal shall deliver each Tandem Transit Traffic call to Verizon with Hundred Call Second and the appropriate Transactional Capabilities Application Part (TCAP) message to facilitate full interoperability of CLASS Features and billing functions.

3.3.4 Focal shall exercise its best efforts to enter into a reciprocal Telephone Exchange Service traffic arrangement (either via written agreement or mutual Tariffs) with any CLEC, ILEC, CMRS carrier, or other LEC, to which it delivers Telephone Exchange Service traffic that transits Verizon's Tandem Office. If Focal does not enter into and provide notice to Verizon of the above referenced arrangement within 180 days of the initial traffic exchange with relevant third party carriers, then Verizon may, at its sole discretion, terminate Tandem Transit Service at anytime upon thirty (30) days written notice to Focal.

- 3.3.5 Focal shall pay Verizon for Transit Service that Focal originates at the rate specified in the Pricing Attachment, plus any additional charges or costs the receiving CLEC, ILEC, CMRS carrier, or other LEC, imposes or levies on Verizon for the delivery or termination of such traffic, including any Switched Exchange Access Service charges.
- 3.3.6 Verizon will not provide Tandem Transit Traffic Service for Tandem Transit Traffic to be delivered to a CLEC, ILEC, CMRS carrier, or other LEC, if the volume of Tandem Transit Traffic to be delivered to that carrier exceeds one (1) DS1 level volume of calls.
- 3.3.7 If or when a third party carrier's Central Office subtends a Focal Central Office, then Focal shall offer to Verizon a service arrangement equivalent to or the same as Tandem Transit Service provided by Verizon to Focal as defined in this Section 3 such that Verizon may terminate calls to a Central Office of a CLEC, ILEC, CMRS carrier, or other LEC, that subtends a Focal Central Office ("Reciprocal Tandem Transit Service"). Focal shall offer such Reciprocal Transit Service arrangements under terms and conditions no less favorable than those provided in this Section 3.
- 3.3.8 Neither Party shall take any actions to prevent the other Party from entering into a direct and reciprocal traffic exchange agreement with any carrier to which it originates, or from which it terminates, traffic.

6. Number Resources.

6.1 Number Assignment.

Nothing in this Agreement shall be construed to limit or otherwise adversely affect in any manner either Party's right to employ or to request and be assigned any Central Office Codes ("NXX") pursuant to the Central Office Code Assignment Guidelines and any relevant FCC or Commission orders, as may be amended from time to time, or to establish, by Tariff or otherwise, Rate Centers and Routing Points corresponding to such NXX codes.

6.2 Rate Centers.

Unless otherwise required by Commission order, the Rate Center Areas will be the same for each Party. During the term of this Agreement, Focal shall adopt the Rate Center Area and Rate Center Points that the Commission has approved for Verizon within the LATA and Tandem serving area, in all areas where Verizon and Focal service areas overlap. Focal shall assign whole NPA-NXX codes to each Rate Center Area unless otherwise ordered by the FCC, the Commission or another governmental entity of appropriate jurisdiction, or the LEC industry adopts alternative methods of utilizing NXXs.

6.3 Routing Points.

Focal will also designate a Routing Point for each assigned NXX code. Focal shall designate one location for each Rate Center Area in which the Focal has established NXX code(s) as the Routing Point for the NPA-NXXs associated with that Rate Center, and such Routing Point shall be within the same LATA as the Rate Center Area but not necessarily within the Rate Center Area itself. Unless specified otherwise, calls to

subsequent NXXs of Focal will be routed in the same manner as calls to Focal's initial NXXs.

6.4 Customer Local Calling Area(s).

Notwithstanding anything to the contrary contained herein, nothing in this Agreement is intended, and nothing in this Agreement shall be construed, to in any way constrain Focal's choices regarding the size of the local calling area(s) that Focal may establish for its Customers, which local calling areas may be larger than, smaller than, or identical to Verizon's local calling areas.

6.5 Programming Switches.

It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to information provided on ASRs as well as the LERG in order to recognize and route traffic to the other Party's assigned NXX codes. Except as expressly set forth in this Agreement, neither Party shall impose any fees or charges whatsoever on the other Party for such activities.

7. Number Portability - Section 251(B)(2)

7.1 Scope.

The Parties shall provide Number Portability (NP) in accordance with rules and regulations as from time to time prescribed by the FCC.

7.2 Procedures for Providing LNP ("Long-term Number Portability").

The Parties will follow the LNP provisioning process recommended by the North American Numbering Council (NANC) and adopted by the FCC. In addition, the Parties agree to follow the LNP ordering procedures established at the OBF. The Parties shall provide LNP on a reciprocal basis.

7.2.1 A Customer of one Party ("Party A") elects to become a Customer of the other Party ("Party B"). The Customer elects to utilize the original telephone number(s) corresponding to the Telephone Exchange Service(s) it previously received from Party A, in conjunction with the Telephone Exchange Service(s) it will now receive from Party B. After Party B has received a letter of agency (LOA) from a Customer and sends a LSR to Party A, Parties A and B will work together to port the Customer's telephone number(s) from Party A's network to Party B's network. It is Party B's responsibility to maintain a file of all LOAs and Party A may request, upon reasonable notice, a copy of the LOA.

7.2.2 When a telephone number is ported out of Party A's network, Party A will remove any non-proprietary line based calling card(s) associated with the ported number(s) from its Line Information Database (LIDB). Reactivation of the line-based calling card in another LIDB, if desired, is the responsibility of Party B or Party B's Customer.

7.2.3 When a Customer of Party A ports their telephone numbers to Party B and the Customer has previously secured a reservation of line numbers from Party A for possible activation at a future point, these reserved but inactive numbers may be

ported along with the active numbers to be ported provided the numbers have been reserved for the Customer. Party B may request that Party A port all reserved numbers assigned to the Customer or that Party A port only those numbers listed by Party B. As long as Party B maintains reserved but inactive numbers ported for the Customer, Party A shall not reassign those numbers. Party B shall not reassign the reserved numbers to another Customer.

- 7.2.4 When a Customer of Party A ports their telephone numbers to Party B, in the process of porting the Customer's telephone numbers, Party A shall implement the ten-digit trigger feature where it is available. When Party A receives the porting request, the unconditional trigger shall be applied to the Customer's line before the due date of the porting activity. When the ten-digit unconditional trigger is not available, Party A and Party B must coordinate the disconnect activity.
- 7.2.5 The Parties shall furnish each other with the Jurisdiction Information Parameter (JIP) in the Initial Address Message (IAM), containing a Local Exchange Routing Guide (LERG)-assigned NPA-NXX (6 digits) identifying the originating switch on calls originating from LNP capable switches.
- 7.2.6 Where LNP is commercially available, the NXXs in the office shall be defined as portable, except as noted in 14.2.7, and translations will be changed in the Parties' switches to open those NXXs for database queries in all applicable LNP capable offices within the LATA of the given switch(es). On a prospective basis, all newly deployed switches will be equipped with LNP capability and so noted in the LERG.
- 7.2.7 All NXXs assigned to LNP capable switches are to be designated as portable unless a NXX(s) has otherwise been designated as non-portable. Non-portable NXXs include NXX codes assigned to paging, cellular and wireless services; codes assigned for internal testing and official use and any other NXX codes required to be designated as non-portable by the rules and regulations of the FCC. NXX codes assigned to mass calling on a choked network may not be ported using LNP technology but are portable using methods established by the NANC and adopted by the FCC. On a prospective basis, newly assigned codes in switches capable of porting shall become commercially available for porting with the effective date in the network.
- 7.2.8 Both Parties' use of LNP shall meet the performance criteria specified by the FCC. Both Parties will act as the default carrier for the other Party in the event that either Party is unable to perform the routing necessary for LNP.

7.3 Procedures for Providing NP Through Full NXX Code Migration.

Where a Party has activated an entire NXX for a single Customer, or activated at least eighty percent (80%) of an NXX for a single Customer, with the remaining numbers in that NXX either reserved for future use by that Customer or otherwise unused, if such Customer chooses to receive Telephone Exchange Service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party. Such transfer will be accomplished with appropriate coordination between the Parties and subject to appropriate industry lead times for movements of NXXs from one switch to another. Neither Party shall charge the other in connection with this coordinated transfer.

7.4 Procedures for Providing INP (Interim Number Portability).

The Parties shall provide Interim Number Portability (INP) in accordance with rules and regulations prescribed from time to time by the FCC and state regulatory bodies, the Parties respective company procedures, and as set forth in this Section 7.4. The Parties shall provide INP on a reciprocal basis.

- 7.4.1 In the event that either Party, Party B, wishes to serve a Customer currently served at an End Office of the other Party, Party A, and that End Office is not LNP-capable, Party A shall make INP available. INP will be provided by remote call forwarding (RCF) and/or direct inward dialing (DID) technology, which will forward terminating calls to Party B's End Office. Party B shall provide Party A with an appropriate "forward-to" number.
- 7.4.2 Prices for INP and formulas for sharing Terminating access revenues associated with INP shall be provided where applicable, upon request by the Parties.
- 7.4.3 Either Party wishing to use DID to provide for INP must request a dedicated trunk group from the End Office where the DID numbers are currently served to the new serving-End Office. If there are no existing facilities between the respective End Offices, the dedicated facilities and transport trunks will be provisioned as unbundled service through the ASR provisioning process. The requesting party will reroute the DID numbers to the pre-positioned trunk group using the LSR provisioning process. DID trunk rates are contained in the Parties' respective tariffs.
- 7.4.4 The Parties Agree that, per FCC 98-275, Paragraph 16, effective upon the date LNP is available at any End Office of one Party, Party A, providing INP for Customers of the other Party, Party B, no further orders will be accepted for new INP at that End Office. Orders for new INP received prior to that date, and change orders for existing INP, shall be worked by Party A. Orders for new INP received by Party A on or after that date shall be rejected. Existing INP will be grand-fathered, subject to Section 7.4.5, below.
- 7.4.5 In offices equipped with LNP prior to September 1, 1999 for former Bell Atlantic offices and October 1, 2000 for former GTE offices, the Parties agree to work together to convert all existing INP-served Customers to LNP by 12/31/00 in accordance with a mutually agreed to conversion process and schedule. If mutually agreed to by the Parties, the conversion period may be extended one time by no more than 90 days from December 31, 2000.
- 7.4.6 Upon availability of LNP after October 1, 2000 at an End Office of either Party, both Parties agree to work together to convert the existing INP-served Customers to LNP by no later than 90 days from the date of LNP availability unless otherwise agreed to by the Parties.
- 7.4.7 When, through no fault of Verizon's, all INP has not been converted to LNP at the end of the agreed to conversion period, then the remaining INPs will be changed to a functionally equivalent tariff service and billed to the CLEC at the tariff rate(s) for the subject jurisdiction.

7.5 Procedures for LNP Request.

The Parties shall provide for the requesting of End Office LNP capability on a reciprocal

basis through a written request. The Parties acknowledge that Verizon has deployed LNP throughout its network in compliance with FCC 96-286 and other applicable FCC rules.

7.5.1 If Party B desires to have LNP capability deployed in an End Office of Party A, which is not currently capable, Party B shall issue a LNP Request to the Party A. Party A will respond to the Party B, within ten (10) days of receipt of the request, with a date for which LNP will be available in the requested End Office. Party A shall proceed to provide for LNP in compliance with the procedures and timelines set forth in FCC 96-286, Paragraph 80, and FCC 97-74, Paragraphs 65 through 67.

7.5.2 The Parties acknowledge that each can determine the LNP-capable End Offices of the other through the Local Exchange Routing Guide (LERG). In addition the Parties shall make information available upon request showing their respective LNP-capable End Offices, as set forth in this Section 7.5.

Article VI (Resale of Services):

5.3 Rates.

The prices charged to Focal for Services provided pursuant to this Resale of Services Article shall be as set forth in Article XI.

Article VII (Unbundled Network Elements):

4.1 Rates and Charges.

The monthly recurring charges (MRCs) and non-recurring charges (NRCs) applicable for the UNEs and UNE-Ps, and related services made available under this Article are set forth in Article XI. Compensation arrangements for the exchange of switched traffic between Focal and Verizon when Focal uses a Verizon port, local switching and shared transport shall be as set forth in Article IX.

Article VIII (Additional Services and Coordinated Service Arrangements):

1. Transfer of Service Announcements.

When a Customer changes its service provider from Verizon to Focal, or from Focal to Verizon, and does not retain its original telephone number, the Party formerly providing service to such Customer shall provide a referral announcement ("Referral Announcement") on the abandoned telephone number which provides the Customer's new number or other appropriate information, to the extent known to the Party formerly providing service. Notwithstanding the foregoing, a Party shall not be obligated under this Section to provide a Referral Announcement if the Customer owes the Party unpaid overdue amounts or the Customer requests that no Referral Announcement be provided.

Referral Announcements shall be provided, in the case of business Customers, for a period of not less than one hundred and twenty (120) days after the date the Customer changes its telephone number, and, in the case of residential Customers, not less than thirty (30) days after the date the Customer changes its telephone number; provided that if a longer time period is required by Applicable Law, such longer time period shall apply. Except as otherwise provided by Applicable Law, the period for a referral may be shortened by the Party formerly providing service if a number shortage condition requires reassignment of the telephone number.